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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

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Person To Contact:

, ID No.

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PLR-100704-10

Date:

March 02, 2010

LEGEND:

Target =

Acquiring =

Shareholder A =

X =

Y =

Z =

Date 1 =

Business =

Dear _____ :

This letter responds to your January 4, 2010 request for rulings on certain federal income tax consequences of a series of proposed transactions. The information submitted in that request and in later correspondence is summarized below.

The rulings contained in this letter are based on facts and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the materials submitted in support of the request for rulings. Verification of the information, representations, and other data may be required as part of the audit process.

Summary of Facts

Target is the common parent of an affiliated group of corporations that files a consolidated federal income tax return. Target was originally formed as a holding company for a number of operating subsidiaries. Shareholder A, directly and indirectly, owns approximately x percent of Target's outstanding common stock. The remainder of Target's common stock is publicly held. Over the years, Target has controlled a number of businesses; however, as of the end of Date 1, Target had disposed of its interests in operating companies apart from its interest in Acquiring. Currently, Target's primary business is acting as a holding company for Acquiring.

Acquiring is the common parent of an affiliated group of corporations that files a consolidated federal income tax return. Acquiring is engaged in Business. Acquiring has two classes of stock outstanding: Class A common stock and Class B common stock, which is exchangeable into Class A common stock. Acquiring's Class A common stock is widely held and publicly traded. Target owns all of Acquiring's outstanding Class B common stock, or approximately y percent (more than 50) of the outstanding common stock of Acquiring by value.

Proposed Transaction

For what have been represented to be valid business purposes the following steps have been proposed (the "Proposed Transaction"):

- (i) Acquiring will form a limited liability company ("LLC"), an entity disregarded as separate from its owner under §301.7701-3.

- (ii) Pursuant to state law, Target will merge with and into LLC (together with Acquiring, the "Acquiring Unit") with LLC surviving (the "Downstream Merger").

As a result of the Downstream Merger, the Target common stock will be converted into the right to receive common stock of Acquiring. Target shareholders may receive Class A common stock of Acquiring, Class B common stock of Acquiring, or both. It is anticipated that the rights associated with the two classes of stock will be similar to the currently outstanding Class A common stock and Class B common stock of Acquiring. During the three-year period preceding the date of the Downstream Merger, Shareholder A, directly and indirectly, will have owned no less than \geq percent of the stock of Target. Immediately after the Downstream Merger, Shareholder A, directly and indirectly, will own less than \geq percent of Acquiring.

Representations

The following representations are made in connection with the Proposed Transaction:

- (a) The fair market value of Acquiring common stock and cash in lieu of fractional shares received in the Downstream Merger by each of the Target shareholders will be approximately equal to the fair market value of Target common stock surrendered in the Downstream Merger.
- (b) At least 40 percent of the proprietary interest in Target will be exchanged for Acquiring common stock and that proprietary interest will be preserved (within the meaning of §1.368-1(e)).
- (c) Neither Acquiring Unit nor any person related to Acquiring Unit (within the meaning of §1.368-1(e)(3)) has any plan or intention to reacquire any Acquiring common stock issued in the transaction for any consideration other than Acquiring common stock, either directly or through any transaction, agreement, or other arrangement with any other person.
- (d) Acquiring Unit has no plan or intention to sell or otherwise dispose of any of the assets of Target acquired in the transaction, except for dispositions made in the ordinary course of business or transfers described in §368(a)(2)(C) or described in §1.368-2(k).
- (e) The liabilities of Target assumed by Acquiring Unit and the liabilities to which the transferred assets of Target are subject were incurred by Target in the ordinary course of its business.

- (f) Following the Downstream Merger, Acquiring Unit will continue the historic business of the Target or use a significant portion of Target's historic business assets in a business as required and defined in §1.368-1(d).
- (g) Acquiring Unit, Target, and Target's shareholders each will pay their respective expenses, if any, incurred in connection with the Downstream Merger.
- (h) There is no intercorporate indebtedness existing between Acquiring Unit and Target that was or will be issued, acquired or settled at a discount.
- (i) No two parties to the Downstream Merger are investment companies as defined in §368(a)(2)(F)(iii) and (iv).
- (j) Target is not under the jurisdiction of a court in a title 11 or similar case within the meaning of §368(a)(3)(A).
- (k) The fair market value of the assets of Target to be transferred to Acquiring Unit will equal or exceed the sum of liabilities assumed by Acquiring Unit, plus the amount of liabilities, if any, to which the transferred assets are subject.
- (l) Target and Acquiring Unit will adopt a plan of merger, and the Downstream Merger will occur pursuant to such plan.
- (m) The payment of cash in lieu of fractional shares, if any, of Acquiring common stock will be solely for the purpose of avoiding the expense and inconvenience to Acquiring of issuing fractional shares and will not represent separately bargained-for consideration. The total cash consideration that will be paid in the Downstream Merger to the Target shareholders, instead of issuing fractional shares of Acquiring common stock, will not exceed one percent of the total consideration that will be issued in the Downstream Merger to the Target shareholders in exchange for their shares of Target common stock. The fractional share interests of each Target shareholder will be aggregated, and no Target shareholder will receive cash in an amount equal to or greater than the value of one full share of Acquiring common stock.
- (n) Target, Acquiring, and each of their affiliates will be eligible to file a consolidated return immediately after the Downstream Merger.

Rulings

Based solely on the information submitted and the representations set forth above, we rule as follows regarding the Proposed Transaction:

- (1) The Downstream Merger will qualify as a reorganization within the meaning of §368(a)(1)(A). Acquiring and Target will each be “a party to the reorganization” within the meaning of §368(b).
- (2) Target will recognize no gain or loss upon the transfer of the assets of Target to Acquiring Unit solely in exchange for Acquiring common stock and the assumption of liabilities by Acquiring Unit (§§361(a) and 357(a)).
- (3) Target will recognize no gain or loss on the distribution of Acquiring common stock to its shareholders (§361(c)).
- (4) Acquiring will recognize no gain or loss upon Acquiring Unit’s receipt of Target’s assets in exchange for Acquiring common stock (§1032(a)).
- (5) The basis of Target’s assets in the hands of Acquiring Unit will be the same as the basis of such assets in the hands of Target immediately before the Downstream Merger (§362(b)).
- (6) The holding period of Target’s assets in the hands of Acquiring Unit will include the period during which Target held such assets (§1223(2)).
- (7) A Target shareholder will recognize no gain or loss upon the receipt of Acquiring common stock in exchange for Target common stock (§354(a)(1)).
- (8) A Target shareholder’s basis in the Acquiring common stock received will be the same as the basis of the Target common stock surrendered in exchange therefor (§358(a)(1)).
- (9) A Target shareholder’s holding period in the Acquiring common stock received will include the period during which the Target common stock surrendered in exchange therefor was held, provided the Target common stock was held as a capital asset on the date of the exchange (§1223(1)).
- (10) The payment of cash in lieu of issuing fractional shares of Acquiring common stock will be treated as if the fractional shares were issued in the Downstream Merger and then redeemed by Acquiring with the cash payments treated as having been received as distributions in full payment in exchange for the redeemed fractional shares as provided in §302(a). Provided the fractional share interest is a capital asset in the hands of the recipient shareholder, the gain or loss will constitute capital gain or loss

subject to the provisions and limitations of Subchapter P of Chapter 1. Rev. Rul. 66-365, 1966-2 C.B. 116; Rev. Proc. 77-41, 1977-2 C.B. 574.

- (11) Acquiring will succeed to and take into account, as of the close of the effective date of the Downstream Merger, the items of Target described in §381(c), subject to the conditions and limitations specified in §§381, 382, 383, and 384 and the regulations thereunder (§1.381(a)-1).
- (12) With regard to the §382 testing date applicable that occurs as a result of the Downstream Merger, Shareholder A will not contribute to any owner shift in Target because (a) Shareholder A's percentage of stock ownership interest in Target will not increase during the testing period; and (b) immediately following the Downstream Merger, Shareholder A's percentage of stock ownership interest in Acquiring (Target's successor) will not exceed Shareholder A's lowest percentage of stock interest in Target during the testing period (§§1.382-2T(c) and 1.382-2(a)(1)(ii)).
- (13) The Downstream Merger will constitute a reverse acquisition within the meaning of §1.1502-75(d)(3), with Acquiring becoming the common parent of the affiliated group.

Caveats

We express no opinion about the tax treatment of the Proposed Transaction under other provisions of the Code and regulations or about the tax treatment of any conditions existing at the time of, or effects resulting from, the Proposed Transaction that are not specifically covered by the above rulings.

Procedural Statements

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

A copy of this letter must be attached to the federal income tax return of each party involved in the Proposed Transaction for the taxable year in which the Proposed Transaction is completed.

Under the power of attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Lewis K Brickates
Chief, Branch 4
Office of Associate Chief Counsel (Corporate)